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Attorneys for Defendants and Counterclaim  
Plaintiffs CC International LLC and Hot Off  
The Press, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

TOO MARKER PRODUCTS, INC., and  
IMAGINATION INTERNATIONAL, INC.,

Plaintiffs and Counterclaim  
Defendants,

v.

CC INTERNATIONAL LLC, AND HOT  
OFF THE PRESS, INC.,

Defendants and Counterclaim  
Plaintiffs.

No. 6:12-cv-00834-TC

**DECLARATION OF JULIA E.  
MARKLEY IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

I, Julia E. Markley, declare that:

1. I am an attorney with the law firm of Perkins Coie LLP representing Defendants and Counterclaim Plaintiffs CC International LLC ("Crafters Companion") and Hot Off The Press, Inc. (collectively, the "Defendants") in this action. I am competent to make this Declaration and the facts set forth herein are based upon my personal knowledge. This Declaration is being submitted in support of Defendants' Motion for Partial Summary Judgment.

1- DECLARATION OF JULIA E. MARKLEY

86860-0001/LEGAL25001550

**Perkins Coie LLP**  
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2. On October 30, 2012, I spoke by telephone with counsel for Plaintiffs/Counterclaim Defendants Tim DeJong about this motion. On November 8, 2012, I conferred by telephone with Mr. DeJong and his colleague Jake Gill about this motion as well as a proposal to resolve his clients' claims in this case with respect to the Spectrum Noir marker with indented end caps ("old Spectrum Noir marker"). Mr. DeJong asked for a draft of the motion and for time to review it. On November 9, I sent him and Mr. Gill a draft of the memorandum in support of this motion and asked him to let me know Plaintiffs' position on the motion by November 19. On November 20, Mr. DeJong stated that it did not appear beneficial to confer further on the motion.

3. Attached hereto as Exhibit 1 are true and correct copies of photographs of a Copic marker and a current Spectrum Noir marker taken under my supervision.

4. Attached hereto as Exhibit 2 are true and correct copies of photographs of an old Spectrum Noir marker taken under my supervision. This marker was provided to my office by Crafter's Companion. This marker is being filed conventionally with the Court as Exhibit 3, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

5. Attached hereto as Exhibit 4 are true and correct copies of photographs of a current Spectrum Noir marker and a set of 6 of the current Spectrum Noir markers taken under my supervision. The set of 6 in the photographs is being filed conventionally with the Court as Exhibit 5, and a similar set of 6 is being provided to the Judge and to opposing counsel.

6. Attached hereto as Exhibit 6 is a true and correct copy of selected pages from the www.joann.com website, printed by my staff under my supervision on October 25, 2012, and October 30, 2012.

7. Attached hereto as Exhibit 7 is a true and correct copy of Trademark Registration No. 3,629,617, obtained from the U.S. Patent & Trademark Office website www.uspto.gov.

8. Attached hereto as Exhibit 8 is a true and correct copy of Trademark Registration No. 4,113,852, obtained from the U.S. Patent & Trademark Office website [www.uspto.gov](http://www.uspto.gov).

9. Attached hereto as Exhibit 9 are true and correct copies of photographs of a Copic marker taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 10, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

10. Attached hereto as Exhibit 11 is a true and correct copy of selected pages from the [www.store.copicmarker.com](http://www.store.copicmarker.com) website, printed by my staff under my supervision on October 25, 2012 and October 30, 2012.

11. Attached hereto as Exhibit 12 are true and correct copies of photographs of the Copic marker Basic Brights 12 piece set taken under my supervision.

12. Attached hereto as Exhibit 13 is a true and correct copy of selected pages from the [www.dickblick.com](http://www.dickblick.com) website, printed by my staff under my supervision on October 26, 2012, October 30, 2012, and November 6, 2012.

13. Attached hereto as Exhibit 14 is a true and correct copy of selected pages from the [www.markerpop.com](http://www.markerpop.com) website, printed by my staff under my supervision on October 26, 2012.

14. Attached hereto as Exhibit 15 is a true and correct copy of a photograph of a Copic marker display at Dick Blick in Portland, Oregon, taken under my supervision.

15. Attached hereto as Exhibit 16 are true and correct copies of photographs of a Copic Ciao marker taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 17, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

16. Attached hereto as Exhibit 18 are true and correct copies of photographs of a Copic Sketch marker taken under my supervision. This marker is being filed conventionally

with the Court as Exhibit 19, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

17. Attached hereto as Exhibit 20 are true and correct copies of photographs of a Copic Wide marker taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 21, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

18. Attached hereto as Exhibit 22 is a true and correct copy of the Complaint filed on August 27, 2009, by Too Marker Products, Inc. and Imagination International, Inc. in *Too Marker Products, Inc. v. Shinhan Art Materials, Inc.*, United States District Court, District of Oregon, Case No. 09-cv-01013-PK.

19. Attached hereto as Exhibit 23 is a true and correct copy of the Settlement Order and Dismissal in *Too Marker Products, Inc. v. Shinhan Art Materials, Inc.*, United States District Court, District of Oregon, Case No. 09-cv-01013-PK, filed on April 28, 2011.

20. Attached hereto as Exhibit 24 are true and correct copies of photographs of a Shinhan Touch marker (the “old Shinhan Touch marker”) taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 25, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

21. Attached hereto as Exhibit 26 are true and correct copies of photographs of the redesigned Shinhan Touch fine marker and Shinhan Touch brush marker (collectively, “current Shinhan Touch markers”) taken under my supervision. These markers are being filed conventionally with the Court as Exhibits 27 and 28, respectively, and markers similar in every way except color are being provided to the Judge and to opposing counsel.

22. Attached hereto as Exhibit 29 is a true and correct copy of selected pages from the [www.pearlpaint.com](http://www.pearlpaint.com) website, printed by my staff under my supervision on October 26, 2012, and November 6, 2012.

23. Attached hereto as Exhibit 30 are true and correct copies of photographs of the Kurecolor marker and Kurecolor marker set taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 31, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

24. Attached hereto as Exhibit 32 is a true and correct copy of selected pages from the www.markersupply.com website, printed under my supervision on October 29, 2012.

25. Attached hereto as Exhibit 33 is a true and correct copy of selected pages from the www.acmoore.com website, printed under my supervision on October 29, 2012 and October 30, 2012.

26. Attached hereto as Exhibit 34 are true and correct copies of photographs of a Pantone marker and Pantone marker set taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 35, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

27. Attached hereto as Exhibit 36 are true and correct copies of photographs of a MEPXY marker taken under my supervision. This marker is being filed conventionally with the Court as Exhibit 37, and a marker similar in every way except color is being provided to the Judge and to opposing counsel.

28. Attached hereto as Exhibit 38 are true and correct copies of photographs of Copic, current Shinhan Touch, Kurecolor, Pantone, and current Spectrum Noir markers taken under my supervision.

*I declare under penalty of perjury that the foregoing is true and correct.*

DATED this 21<sup>st</sup> day of November, 2012.

/s/ Julia E. Markley  
Julia E. Markley